

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION**

<b>In Re:</b>  <b>Matthew William Davies and Sarah Virginia Davies, Debtors.</b>	<b>Case No. 09-80093</b>
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**Order Denying Auction Confirmation**

The matter before the Court in this chapter 7 case is the motion filed by John A. Northen (the “Trustee”), chapter 7 trustee for Matthew William Davies and Sarah Virginia Davies (the “Debtors”) pursuant to §§105 and 363 of the Bankruptcy Code and Rules 2002, 6004, and 9006 of the Federal Rules of Bankruptcy Procedure to deny confirmation of an auction of real property. A hearing was held on the Trustee’s motion on November 17, 2010 in Durham, North Carolina. For the reasons that follow the relief requested by the Trustee will be **ALLOWED**:

1       The Debtors filed a voluntary petition pursuant to Chapter 7 of the Bankruptcy Code on January 22, 2009, and John A. Northen is the duly appointed Trustee in Bankruptcy for the Debtor’s estate.

2       This Court has jurisdiction over the subject matter hereof pursuant to 28 U.S.C. §§151, 157 and 1334, and this is a core proceeding within 28 U.S.C. §157(b)(2). Venue is proper pursuant to 28 U.S.C. §§1408 and 1409.

3       The Court authorized the Trustee to sell real property located at 1408 Wabash Street, Durham, NC (the “Real Property”), jointly held with Tavares Josey and Katherine Josey, (the “Joseys”).

4       The net proceeds from the sale of the Real Property will represent the only asset of the estate.

5       The Debtors each claimed an exemption in the Real Property pursuant to NCGS §1C-1601(a)(2).

6       The Real Property has a tax value of \$94,541 and upon information and belief is unencumbered by a mortgage. However, the City/County of Durham is owed taxes for 2009 in the amount of \$1290.15 and for 2010 in the amount of \$1225.79.

7 The Real Property is not in good condition and significant repairs will be required before the home is habitable.

8 John Pait and Associates held an auction at the Real Property premises on July 30, 2010 (the "Auction"). The Auction was held subject to confirmation by this Court.

9 Although the Auction was well advertised, it was not well attended and the highest bidder was Calvin Rodgers and Bryson Rodgers with a bid of just \$8000.00 (the "Successful Bid").

10 The Successful Bid does not provide sufficient funds for the Trustee to pay the outstanding taxes, the administrative costs of the Auction, pay the Joseys their interest in the Real Property proceeds and pay the Debtors their exemption.

11 If confirmed the Successful Bid would result in no distribution to unsecured creditors, in fact it would yield an administratively insolvent estate.

12 For the above reasons, the Court finds that the Auction is not in the best interests of creditors and should not be confirmed by this Court.

Accordingly it is hereby **ORDERED, DECREED, and AJUDGED** that the auction of the real property located at 1408 Wabash Street, Durham, NC that was held on July 30, 2010 is **NOT CONFIRMED**.

Parties to be served:

Michael D. West Bankruptcy Administrator P.O. Box 1828 Greensboro, NC 27402	Matthew William Davies Sarah Virginia Davies 1412 Oak Forest Drive Hillsborough, NC 27278
Tavares D. Josey Katherine E. Josey 116 Monterey Lane Durham, NC 27713-2518	John T. Orcutt 6616-203 Six Forks Rd Raleigh, NC 27615
John A. Pait John Pait & Associates 204 Dartmouth Street Greensboro, NC 27407	Calvin Rodgers Bryson Rodgers 2915 NC Hwy 55 Durham, NC 27713